

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

STATE OF DELAWARE,	)	
	)	
v.	)	ID No. 1807013209,
	)	1305000180, 1609015318
KHALIQ SCOTT,	)	
	)	
Defendant.	)	

Date Submitted: August 20, 2019  
Date Decided: November 15, 2019

**ORDER**

Upon consideration of Defendant's Motion for Sentence Modification,<sup>1</sup> statutory and decisional law, and the record in this case, **IT APPEARS THAT:**

1. On January 31, 2019, Defendant pled guilty to Tier 4 Drug Dealing<sup>2</sup> and was found in violation of probation ("VOP") on charges from two prior cases (ID No. 1305000180, 1609015318).<sup>3</sup> On June 21, 2019, Defendant was sentenced as follows: for his VOPs, 3 years unsuspended at Level 5, followed by 1 year at Level 3;<sup>4</sup> and for Tier 4 Drug Dealing, 25 years at Level 5, suspended after 6 years, for balance at Level 4 CREST, suspended after completion of CREST for 18 months

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<sup>1</sup> ID No. 1807013209, D.I. 26.

<sup>2</sup> D.I. 13.

<sup>3</sup> *Id.* Defendant was found in VOP on Tier 5 Possession, Possession of a Deadly Weapon by a Person Prohibited ("PDWBPP"), and Drug Dealing.

<sup>4</sup> On his 2013 VOPs, Defendant was sentenced as follows: for PDWBPP, 1 year at Level 5, and for Tier 5 Possession, 6 years at Level 5, suspended after 1 year for 1 year at Level 3. *See* No. 1305000180, D.I. 50. For his 2016 VOP, he was sentenced for Drug Dealing, to 12 years at Level 5, suspended after 1 year for 1 year at Level 3. *See* ID No. 1609015318, D.I. 20. Probation runs concurrent.

at Level 3 CREST AFTERCARE, hold at Level 5 until space available at Level 4 CREST.<sup>5</sup>

2. On July 19, 2019, Defendant filed the instant Motion asking to suspend his Level 5 time for Level 4 Work Release after he completes the Key program and obtains his high school diploma.<sup>6</sup> Defendant submits six grounds in support of his Motion: (1) newly amended 11 *Del. C.* § 3901; (2) remorse; (3) familial hardship; (4) employment; (5) Key program; and (6) education.<sup>7</sup>

3. Superior Court Criminal Rule 35 governs motions for modification of sentence. Pursuant to Rule 35, the Court may reduce a sentence of imprisonment on a motion made within 90 days after the sentence is imposed. The purpose of Rule 35 is to provide a sentencing judge “a second chance to consider whether the initial sentence is appropriate.”<sup>8</sup> Where a motion for modification or reduction is filed within 90 days of sentencing, the Court has broad discretion to decide if it should alter its judgment.<sup>9</sup>

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<sup>5</sup> ID No. 1807013209, D.I. 24. Probation runs concurrent with VOPs.

<sup>6</sup> *Id.* at D.I. 26.

<sup>7</sup> *Id.*

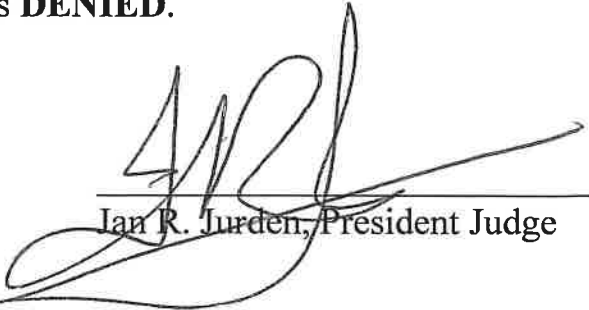
<sup>8</sup> *State v. Thomas*, 2019 WL 5704287, at \*2 (Del. Super. Oct. 31, 2019) (quoting *State v. Reed*, 2014 WL 7148921, at \*2 (Del. Super. Dec. 16, 2014)).

<sup>9</sup> *Petty v. State*, 2018 WL 5249999, at \*1 (Del. Oct. 19, 2018) (citing *Hewett v. State*, 2014 WL 5020251, at \*1 (Del. Oct. 7, 2014) (“When, as here, a motion for reduction of sentence is filed within ninety days of sentencing, the Superior Court has broad discretion to decide whether to alter its judgment.”)).

4. The sentence is appropriate for all the reasons stated at the time of sentencing and no additional information has been provided to the Court that would warrant a reduction or modification of this sentence.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Defendant's Motion for Modification of Sentence is **DENIED**.

**IT IS SO ORDERED.**



Ian R. Jurden, President Judge

Original to Prothonotary

cc: Khaliq Scott, *pro se* (SBI# 00713568)  
Beth Deborah Savitz, Esq., DAG